

**THE HON'BLE MR JUSTICE N.V. RAMANA**

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**WRIT PETITION NO : 10591 of 1999**

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**Dated: 13.09.2005**

Between:

M/s Purandas Ranchoddas & Sons, Registered Partnership Firm,

Rep: partner Narender, S/o Madanlal,  
22-6-786, Panjeshah, Gulzar Houz East, Hyderabad-2

**..... PETITIONER**

AND

1 The Commissioner, Municipal Corporation of Hyderabad,  
Tank Bund, Hyderabad and 2 others.

**.....RESPONDENTS**

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**THE HON'BLE SRI JUSTICE N.V. RAMANA**

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**W.P. No. 10591 of 1999**

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**Order:**

The petitioner is manufacturer of chewing tobacco, known as Kashmiri Quiwam. The petitioner is having their factory at premises bearing No.22-6-786, Guruvanna Galli, Panjeshah, Gulzar Houz East, Hyderabad (hereinafter referred to as 'Guruvanna Galli'). The petitioner claims that the factory was established after obtaining necessary licence from the Municipal Corporation of Hyderabad (hereinafter referred to as 'the Corporation'). The petitioner states that they shifted the manufacturing activity, which involves boiling and cooling, to agricultural land spread over Ac. 40-00 in Sy. Nos. 46, 53, 54, 55/1 and 56/1 of Premavathipet village, Katedan Industrial Area in Ranga Reddy District, and from 23.11.1997 onwards, after conducting the boiling and cooling operations at the new place, they are bringing the cooled decoction to the premises at Guruvanna Galli for mixing with spices and packing. It is the case of the petitioner that even though there is no pollution caused by the mixing and packing activity, curiously, respondent No.2, Assistant Medical Officer of Health in the Corporation, issued the impugned notice dated 15.05.1999, calling upon the petitioner to close the factory immediately as required under Section 622(3) of the Hyderabad Municipal Corporation Act, 1955, and failure to do so would entail further action. Hence, this writ petition.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the Corporation.

The learned counsel for the petitioner submitted that inasmuch as the appeal filed by the petitioner against the orders issued by the Member Secretary of the A.P. Pollution Control Board directing the petitioner to close the unit, was allowed by the appellate-authority holding that the Pollution Control Board had failed to point out the nature of pollution and its concentration, and having regard to the inspection reports of the officials of the Pollution Control Board to the effect that the petitioner stopped the boiling operations of tobacco at Guruvanna Galli and shifted the same to a farm at Ranga Reddy, the impugned order issued by respondent No.2 calling upon the petitioner to close the factor immediately, cannot be sustained and the writ petition has to be allowed.

The learned Standing Counsel for the Corporation based on the affidavit filed by the Assistant Medical Officer of Health in pursuance of the orders of this Court, admitted that the petitioner stopped the boiling operations of tobacco at Guruvanna Galli and shifted the same to a farm at Ranga Reddy district, and submitted that as of now, the petitioner is undertaking mixing of juices and packing operations at Guruvanna Galli, and that such operations, are not causing any pollution.

This Court on 25.05.1999, while admitting the writ petition, granted interim suspension of the impugned order and also gave interim directions to respondent No.3 to restore power supply to the petitioner. By virtue of the said orders, it is stated that the petitioner is continuing the mixing and packing operations at Guruvanna Galli.

Though respondent Nos. 1 and 2 in 1999 have filed application to vacate the orders passed by this Court while admitting the writ petition, *inter alia* contending that the manufacturing activity of the petitioner resulted in emanation of bad odour, leading to nausea, abdominal irritation, vomiting, headache, dizziness etc., the fact remains that even prior to the issuance of the impugned notice and filing of the writ petition, the Member Secretary of the A.P. Pollution Control Board, issued orders in proceedings No. 476/PCB/TF/99-240, dated 15.04.1999 directing the petitioner to shift the factory from Guruvanna Galli to an industrial area within 45 days, else legal action under Section 31-A of the Air (Prevention & Control of Pollution) Amendment Act, 1987 would follow. Aggrieved by the said orders, it appears that the petitioner filed appeal in Appeal No. 13 of 1999 before the Appellate Authority under Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981. While considering the said appeal, the appellate authority took cognizance of the actions initiated by the A.P. Pollution Control Board in 1997, and the compliance made by the petitioner in pursuance of such actions. In that the Member Secretary had on 22.11.1997 directed the petitioner not to carry on the boiling operations of tobacco at Guruvanna Galli and permitted to carry on other activity from the said place, and the petitioner in compliance of the said orders, stopped the boiling operations at Guruvanna Galli. The appellate authority also took cognizance of the inspection made on 18.01.1998 by Mr. Narasimha Rao, AEE of the Pollution Control Board as also the inspection made on 16.03.1999 by the

officials of the Pollution Control Board, who found that the petitioner stopped the boiling process of tobacco at Guruvanna Galli and shifted the same to a farm at Ranga Reddy and that the petitioner is only undertaking adding of spices and packing at Guruvanna Galli, and that the petitioner had made compliances of the objections taken. Taking cognizance as above, the appellate authority allowed the appeal by orders dated 26.07.1999 holding that the Pollution Control Board failed to point out the nature of pollution and its concentration. He, however, observed that the said order would not prevent the Pollution Control Board from taking necessary samples and getting them analysed and initiating such action as may be permissible under the provisions of the Act.

Since the appeal filed by the petitioner against the orders of the Member Secretary of the Pollution Control Board was allowed basing on the inspection reports of the officials of the Pollution Control Board, which were made in 1999, and having regard to the fact that nearly six years had elapsed from the date, the appeal of the petitioner was allowed, this Court in order to know at present by reason of the operations carried on by the petitioner there is any pollution in the area, affecting the health of the citizens residing nearby, by order dated 17.06.2005 directed the Assistant Medical Officer of Health of the Corporation to conduct fresh inspection of the petitioner's factory and filed his report. In pursuance of the said directions, the Assistant Medical Officer of Health of the Corporation filed affidavit on behalf of respondent Nos. 1 and 2 on 11.08.2005, *inter alia* stating as follows:

It appears that, after filing of the present writ petition, the process of extracting the soaked water from the tobacco is shifted to their farm situated in Ranga Reddy District. As on date, the juices obtained from the tobacco are brought to the above premises and ingredients like, cloves, herbs, maize, nutmeg, saffron, cardamom, perfumes, menthol and silver oils are added to the juice and mixed through a mixer and such a final product obtained is called 'Quiwam' and the said "Quiwam" is filled in glass bottles and sealed with a cap and then labeled and packed in individual cartons and thereafter, they are packed in a bigger carton.

It is submitted that as the process of soaking raw tobacco and extracting the soaked water from the tobacco and boiling the same till the desired viscosity is obtained, is shifted to the farm situated in Ranga Reddy and as on today, only adding and mixing of various ingredients after bringing the juices obtained from tobacco and packing them is done in the present premises, there is no chance of coming up of any effluents or causing sound nuisance or emanating foul smell in the said process.

In view of the above affidavit filed by the Assistant Medical Officer of the Corporation, indicating that the petitioner has shifted the activity of boiling tobacco to a farm situated in Ranga Reddy, and that at present the petitioner is undertaking only the activity of adding and mixing the decoction brought from the farm is done at Guruvanna Galli, which is said to be not resulting in any discharge of effluents or causing any noise or sound pollution, and having regard to the fact that the appeal filed by the petitioner against the orders of the Member Secretary of the Pollution Control Board, directing the petitioner to close the unit, was allowed as far back as on 26.07.1999 holding that the Pollution Control Board failed to point out the pollution and the level of concentration, I am of the considered opinion that the impugned notice, issued by respondent No.1 on the ground that the activity carried on by the petitioner at Guruvanna Galli, is causing emanation of bad odour, leading

to nausea, abdominal irritation, vomiting, headache, dizziness etc., cannot be sustained.

In the result, and for the reasons foregoing, the writ petition is allowed, and the impugned order is set aside. This order, however, does not preclude the respondents or the Pollution Control Board, from conducting inspections as and when necessary by taking samples etc., as directed by the appellate authority in its order dated 26.07.1999, referred to in the body of the order, and taking appropriate actions in accordance with the inspection reports, as may be necessary for arresting the pollution. No costs.

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**N.V. RAMANA, J.**

**Date: 13<sup>th</sup> September 2005.**

**KSR**